

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

_____	)	
THE OWEN BUILDING LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 20-266 WES
	)	
VICTORY HEATING & AIR	)	
CONDITIONING CO., INC.,	)	
et al.,	)	
	)	
Defendants.	)	
_____	)	

**ORDER**

On January 20, 2021, Magistrate Judge Lincoln D. Almond issued a Report and Recommendations ("R. & R."), ECF No. 24, regarding Defendant Johnson Control Inc.'s Motion to Dismiss Counts II and III for Failure to State a Claim, ECF No. 5. Judge Almond recommended that this Court grant the Motion as to Count II (negligence) because the negligence claim is barred by the economic loss doctrine. R. & R. 3-6. Judge Almond further recommended that this Court deny the Motion as to Count III (breach of implied warranties) because the Motion relies on a contract that falls outside the scope of Rule 12(b)(6) of the Federal Rules of Civil Procedure. R. & R. 6-7. These

recommendations apply to the Second Amended Complaint, ECF No.

22. R. & R. 2.

After having carefully reviewed the relevant papers, and having heard no objections, the Court ACCEPTS the report and ADOPTS the recommendations and reasoning set forth therein, pursuant to 28 U.S.C. § 636(b)(1)(C). Defendant Johnson Control Inc.'s Motion to Dismiss, ECF No. 5, is GRANTED as to Count II and DENIED as to Count III.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "WESMITH", written over a horizontal line.

William E. Smith

District Judge

Date: February 5, 2021